

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-1441**

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BART EMMANUEL LAPIAN,

Petitioner,

versus

ALBERTO R. GONZALES,

Respondent.

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On Petition for Review of an Order of the Board of Immigration Appeals. (A95-262-628)

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Submitted: October 21, 2005

Decided: November 14, 2005

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Before WILLIAMS and SHEDD, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Petition denied by unpublished per curiam opinion.

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Bart Emmanuel Lapien, Petitioner Pro Se. Carol Federighi, M. Jocelyn Lopez Wright, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Respondent.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Bart Emmanuel Lopian, a native and citizen of Indonesia, petitions for review of an order of the Board of Immigration Appeals affirming, without opinion, the immigration judge's denial of his requests for asylum, withholding of removal, and protection under the Convention Against Torture.

In his petition for review, Lopian challenges the immigration judge's determination that he failed to establish his eligibility for asylum. To obtain reversal of a determination denying eligibility for relief, an alien "must show that the evidence he presented was so compelling that no reasonable factfinder could fail to find the requisite fear of persecution." INS v. Elias-Zacarias, 502 U.S. 478, 483-84 (1992). We have reviewed the evidence of record and conclude that Lopian fails to show that the evidence compels a contrary result. Accordingly, we cannot grant the relief that he seeks.

Additionally, we uphold the denial of Lopian's request for withholding of removal. "Because the burden of proof for withholding of removal is higher than for asylum--even though the facts that must be proved are the same--an applicant who is ineligible for asylum is necessarily ineligible for withholding of removal under [8 U.S.C.] § 1231(b)(3)." Camara v. Ashcroft, 378 F.3d 361, 367 (4th Cir. 2004). Because Lopian fails to show that

he is eligible for asylum, he cannot meet the higher standard for withholding of removal.\*

Accordingly, we deny the petition for review. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED

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\*Lapian does not challenge the immigration judge's denial of his request for protection under the Convention Against Torture in his petition for review.